

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JAN 8 2004

OFFICE OF
MANAGING DIRECTOR

Robert B. Kelly, Esq.
Squire, Sanders & Dempsey L.L.P.
1201 Pennsylvania Ave., N.W.
Post Office Box 407
Washington, D.C. 20044-0407

COLT Telecommunications
Beaufort House
15 St. Botolph Street
London, England EC3A7ON

Re: COLT Telecommunications
Fiscal Year 2003 Regulatory Fee
Fee Control No. 0309268835705003

Dear Mr. Kelly:

This is in response to your request dated October 15, 2003, filed on behalf of COLT Telecommunications (COLT) for a refund of the fiscal year (FY) 2003 regulatory fee associated with active international bearer circuits providing telecommunications services.¹ Our records reflect that you paid a regulatory fee of \$127,844.94 for FY 2003.

You recite that, after "FCC Staff request[ed] that COLT amend its 2002 Circuit Report to reflect the status of facilities-based carrier rather than a reseller[.]" COLT "conditionally paid fees reflecting the status of a facilities-based carrier for all active international circuits used in the provision of its telecommunications services to the United States." You state that "[a]fter further discussions with FCC Staff and a complete review of its provisioning of its circuits, and as reflected in its initial circuit report, COLT has determined that it is not a facilities-based carrier [under section 63.09(a) of the Commission's rules²], as it does not have an ownership interest, an IRU interest, or a

¹ Although your October 15, 2003 letter requests a refund of the FY 2002 regulatory fee, in a subsequent communication you confirm that COLT requests a refund of the FY 2003 regulatory fee.


² 47 C.F.R. §63.09(a) ("Facilities-based carrier means a carrier that holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in the U.S. end of an international facility, regardless of whether the underlying facility is a common carrier or non-common carrier submarine cable or a satellite system.")

leasehold interest in bare capacity in the U.S. end of an international facility and is therefore appropriately classified as a reseller.” In subsequent communications, you confirm that in October of 2003, Commission staff concluded that COLT was properly classified as a reseller on its international circuits as of December 31, 2002, and COLT subsequently amended its 2002 circuit report to reflect the staff’s conclusions.

Facilities-based common carriers with active international bearer circuits are required to pay FY 2003 regulatory fees based upon the circuit count as of December 31, 2002.³ In light of your statement that COLT was a reseller (as opposed to a facilities-based carrier under section 63.09(a) of the rules) of active international bearer circuits during the period in question, we find that a refund of the FY 2003 regulatory fee is warranted. *See* C.F.R. §1.1160(a)(1). Accordingly, your request is granted.

A check made payable to the maker of the original check, and drawn in the amount of \$127,844.94, will be sent pursuant to your request to COLT at the earliest practicable time. If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger
Chief Financial Officer

³ *See Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, 18 FCC Rcd 15985, 15995 (2003); *Regulatory Fees Fact Sheet, What You Owe – International and Satellite Services Licensees* (July 2003).

0309268835705003

**SQUIRE
SANDERS** | LEGAL
COUNSEL
WORLDWIDE

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OCT 15 2003
2003 OCT 16 P 3:12

Federal Communication Commission
Bureau / Office
PROCESSING
10/16/03 TMT

SQUIRE, SANDERS & DEMPSEY L.L.P.

1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044-0407

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Direct: +1.202.626.6216
rkelly@ssd.com

October 15, 2003

Federal Communications Commission
Office of the Managing Director
c/o Natek, Inc.
236 Massachusetts Avenue, NE
Suite 110
Washington, DC 20002

Attention: Regulatory Fee Waiver/Reduction Request

Re: COLT Telecommunications: Request for Refund of 2002 Regulatory Fees

Dear Sir/Madam:

In accordance with Section 1.1160(a)(1) of the Commission's Rules (47 C.F.R. § 1.1160(a)(1)), COLT Telecommunications ("COLT"), by its counsel, hereby requests a refund of an overpayment of its 2002 regulatory fees paid in the amount of \$127,844.94 as no regulatory fees were due.

On September 24, 2003, COLT paid to the Commission the sum of \$127,844.94 as payment for 2002 regulatory fees corresponding to 47,882 active international bearer circuits providing telecommunications services as measured in 64 KB units. Copies of the submitted Form 159 (FCC Remittance Advice), wire transfer payment report (evidencing payment of \$127,864.94), and September 24, 2003 cover letter to the Commission Secretary are attached. As described therein, COLT submitted its payment based on the views expressed by FCC Staff requesting that COLT amend its 2002 Circuit Report to reflect the status of facilities-based carrier rather than a reseller. COLT, accordingly, conditionally paid fees reflecting the status of a facilities-based carrier for all active international circuits used in the provision of its telecommunications services to the United States. COLT paid these fees to ensure that it remained in full compliance with FCC Rules in the event it ultimately determined that it should amend its Circuit Report to reflect a classification of a facilities-based carrier. However, COLT further indicated that it was then reviewing this classification and reserved all rights to request a full or partial refund of these fees if it determined that it is more properly classified as a non-facilities-based service provider for some or all of its active circuits.

After further discussions with FCC Staff and a complete review of its provisioning of its circuits, and as reflected in its initial circuit report, COLT has determined that it is not a facilities-based carrier, as it does not have an ownership interest, an IRU interest, or a leasehold interest in bare capacity in the U.S. end of an international facility and is therefore appropriately classified as a reseller. (47 C.F.R. §

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TAMPA • TYSONS CORNER • WASHINGTON DC • RIO DE JANEIRO | BRATISLAVA • BRUSSELS • BUDAPEST • KYIV • LONDON • MADRID
MILAN • MOSCOW • PRAGUE | BEIJING • HONG KONG • TAIPEI • TOKYO | ASSOCIATED OFFICES: BUCHAREST • DUBLIN

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Federal Communications Commission
Office of the Managing Director
October 15, 2003
Page 2

SQUIRE, SANDERS & DEMPSEY L.L.P.

63.09(a)) COLT has otherwise amended its 2002 Circuit Report in certain respects not affecting regulatory fee obligations. A copy of COLT's amended 2002 Circuit Report is attached hereto.

Resellers of telecommunications services are not required to pay the Commission's annual regulatory fees pertaining to active international bearer circuits. These fees are required of facilities-based carriers activating such circuits. (FCC Regulatory Fees Fact Sheet, July 2003; Decision of the FCC Managing Director re Broadwing Communications Services, Inc., Fee Control Number 9809158835564011 (Dec. 19, 2002)). COLT therefore requests a full refund of its paid 2002 regulatory fees in the amount of \$127,844.94. A refund for that amount should be made directly to COLT Telecommunications and sent to COLT's address as indicated on the attached Form 159.

If there are any questions regarding this matter, please communicate with this office.

Sincerely,



Robert B. Kelly

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDINGFEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICEApproved by OMB
3060-0589
Page 1 of 1

(1) LOCKBOX # 358835		WIRE TRANSFER REGULATORY FEE PAYMENT		FCC REGISTRATION NUMBER (FRN) REQUIRED	
SECTION A - PAYER INFORMATION					
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) COLT TELE COMMUNICATIONS			(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$127,844.94		
(4) STREET ADDRESS LINE NO.1 BEAUFORT HOUSE					
(5) STREET ADDRESS LINE NO.2 15 ST. BOTOLPH STREET					
(6) CITY LONDON, ENGLAND			(7) STATE	(8) ZIP CODE EC3A 70N	
(9) DAYTIME TELEPHONE NUMBER (include area code) +44 (0)207 947 1223			(10) COUNTRY CODE (if not in U.S.A.) UK		
FCC REGISTRATION NUMBER (FRN) REQUIRED					
(11) PAYER (FRN) 0009610122			FCC REGISTRATION NUMBER (FRN) REQUIRED		
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(13) APPLICANT NAME					
(14) STREET ADDRESS LINE NO.1					
(15) STREET ADDRESS LINE NO.2					
(16) CITY			(17) STATE	(18) ZIP CODE	
(19) DAYTIME TELEPHONE NUMBER (include area code)			(20) COUNTRY CODE (if not in U.S.A.)		
FCC REGISTRATION NUMBER (FRN) REQUIRED					
(21) APPLICANT (FRN)			FCC REGISTRATION NUMBER (FRN) REQUIRED		
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(23A) CALL SIGN/OTHER ID		(24A) PAYMENT TYPE CODE 0376		(25A) QUANTITY 47882	
(26A) FEE DUE FOR (PTC)		(27A) TOTAL FEE \$127,844.94			
(28A) FCC CODE 1		(29A) FCC CODE 2 COLT TELECOMMUNICATIONS			
(23B) CALL SIGN/OTHER ID		(24B) PAYMENT TYPE CODE		(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)		(27B) TOTAL FEE			
(28B) FCC CODE 1		(29B) FCC CODE 2			
SECTION D - CERTIFICATION					
CERTIFICATION STATEMENT I, <u>[Signature]</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.					
SIGNATURE _____ DATE _____					
SECTION E - CREDIT CARD PAYMENT INFORMATION					
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____					
ACCOUNT NUMBER _____ EXPIRATION DATE _____					
I hereby authorize the FCC to charge my credit card for the service(s) authorization herein described.					
SIGNATURE _____ DATE _____					

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003 (REVISED)



SQUIRE, SANDERS & DEMPSEY L.L.P.

1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044-0407

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Fax: +1.202.626.6780

Direct: +1.202.626.6216
rkelly@ssd.com

September 24, 2003

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
c/o Vistronix, Inc.
236 Massachusetts Avenue, NE
Suite 110
Washington, DC 20002

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SEP 24 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: COLT Telecommunications's 2002 Regulatory Fees

Dear Secretary Dortch:

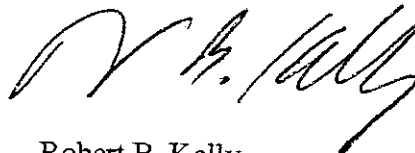
I am writing on behalf of COLT Telecommunications ("COLT") regarding its payment of 2002 regulatory fees for its active international bearer circuits used to provide telecommunications services to the United States. COLT will be paying to the Commission (via wire transfer) the sum of \$127,844.94 corresponding to 47,882 active international bearer circuits providing telecommunications services as measured in 64 KB units. Based on the views expressed by the FCC Staff, COLT is paying regulatory fees reflecting the status of a facilities-based carrier for all active circuits used in the provision of its telecommunications services to the United States. However, with the assistance of counsel, COLT is currently reviewing this classification, and reserves all rights to request a full or partial refund of its fees if it determines that it is more properly classified as a non-facilities-based service provider for some or all of its active circuits. A copy of COLT's completed Form 159 reflecting payment is attached.

Marlene H. Dortch, Secretary
September 24, 2003
Page 2

SQUIRE, SANDERS & DEMPSEY L.L.P.

A copy of this letter and the attached Form 159 are being provided to the Commission's Managing Director.

Sincerely,

A handwritten signature in black ink, appearing to read "R. B. Kelly", written in a cursive style.

Robert B. Kelly

cc: Andrew S. Fishel, Managing Director (w/ attachment)

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

Approved by OMB
3060-0580
Page 1 of 1

(1) LOCK BOX # 358835		WIRE TRANSFER REGULATORY FEE PAYMENT		SPECIFIC USE ONLY	
SECTION A - PAYER INFORMATION					
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(5) STREET ADDRESS LINE NO. 2 15 ST. BOTOLPH STREET					
(6) CITY LONDON, ENGLAND			(7) STATE	(8) ZIP CODE EC3A 7GN	
(9) DAYTIME TELEPHONE NUMBER (include area code) +44 (0)207 947 1223			(10) COUNTRY CODE (if not in U.S.A.) UK		
FCC REGISTRATION NUMBER (FRN) REQUIRED					
(11) PAYER (FRN) 0009610122			SPECIFIC USE ONLY		
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)					
COMPLETE SECTION BELOW FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(13) APPLICANT NAME					
(14) STREET ADDRESS LINE NO. 1					
(15) STREET ADDRESS LINE NO. 2					
(16) CITY			(17) STATE	(18) ZIP CODE	
(19) DAYTIME TELEPHONE NUMBER (include area code)			(20) COUNTRY CODE (if not in U.S.A.)		
FCC REGISTRATION NUMBER (FRN) REQUIRED					
(21) APPLICANT (FRN)			SPECIFIC USE ONLY		
COMPLETE SECTION C FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(23A) CALL SIGN/OTHER ID		(24A) PAYMENT TYPE CODE 0376		(25A) QUANTITY 47882	
(26A) FEE DUE FOR (PTC)		(27A) TOTAL FEE \$127,844.94		SPECIFIC USE ONLY	
(28A) FCC CODE 1		(29A) FCC CODE 2 COLT TELECOMMUNICATIONS			
(23B) CALL SIGN/OTHER ID		(24B) PAYMENT TYPE CODE		(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)		(27B) TOTAL FEE		SPECIFIC USE ONLY	
(28B) FCC CODE 1		(29B) FCC CODE 2			
SECTION D - CERTIFICATION					
CERTIFICATION STATEMENT I, <u>[Signature]</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.					
SIGNATURE			DATE		
SECTION E - CREDIT CARD PAYMENT INFORMATION					
MASTERCARD <input type="checkbox"/> VISA <input type="checkbox"/> AMEX <input type="checkbox"/> DISCOVER <input type="checkbox"/>					
ACCOUNT NUMBER			EXPIRATION DATE		
I hereby authorize the FCC to charge my credit card for the services/authorization herein described.					
SIGNATURE			DATE		

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003 (REVISED)

COLT Telecommunications (Revision 1.0)
2002 Section 63.23(e) Circuit Addition Report
(pursuant to Section 214 Authorizations ## ITC-214-19980126-00043 and ITC-214-20010406-00170)
Data as of 12/31/02

Filing Carrier Nme	Ye	UsPt	ForPnt	Svc	Ftn	Country Description	FC	Datafield 1	Datafield 2
COLT Telecomms	2	1327	112	11		Germany	11	22680	0
COLT Telecomms	2	1327	112	11		Germany	11	1890	0
COLT Telecomms	2	1327	112	11		Germany	11	2	0
COLT Telecomms	2	1327	112	100		Germany	11	24572	0
COLT Telecomms	2	1327	326	11		United Kingdom	11	22680	0
COLT Telecomms	2	1327	326	20		United Kingdom	11	1890	0
COLT Telecomms	2	1327	326	11		United Kingdom	11	630	0
COLT Telecomms	2	1327	326	100		United Kingdom	11	25200	0
COLT Telecomms	2	1327	9001	11		Western Europe	11	47882	0
COLT Telecomms	2	1327	9001	20		Western Europe	11	1890	0
COLT Telecomms	2	1327	9001	100		Western Europe	11	49772	0
COLT Telecomms	2	1327	9999	11		World Total	11	47882	0
COLT Telecomms	2	1327	9999	20		World Total	11	1890	0
COLT Telecomms	2	1327	9999	100		World Total	11	49772	0

CD No.	CD DATE	FEE CONTROL NO.	FRN	PAYER NAME	TRANSACTION DATE	RECEIPT AMOUNT
743675	9/25/03	0309268835/05003	0009610122	COLT telecommunications	9/25/03	\$127,844.94
Seq: 1 Call sign: FCC Code 1: 47882 Applied Amt: FCC Code 2: COLT TELECOMMUNICATIONS						
PTC: 0376 QTY: 47882						
Applicant Name: COLT TELECOMMUNICATIONS						
Address: BEAUFORT HOUSE						
Total:						\$127,844.94